

35 U.S.C. §103(a) Rejections

The Examiner rejected claims 1-2, and 5-7 under §35 U.S.C. §103(a) as unpatentable over Kim et al. (U.S. Patent No. 5,659,790) in view of Graf (U.S. Patent No. 6,397,251) and further in view of Moore (U.S. Patent No. 4,538,259). Applicant respectfully traverses this rejection.

In order to reject a claim under 35 U.S.C. §103(a) the MPEP mandates that three basic criteria must be met.

First, there must be some suggestion or motivation, either in the reference themselves or in knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations.

Contrary to the Examiner's opinion, Applicants submit that the references do not teach or suggest all the claimed limitations either individually or when combined.

The Examiner admits (on page 4 of the Office Action) in reference to claim 1, that the combination of Kim and Graf do not teach "resolving the duration of multimedia objects using the information based on actual multimedia object durations and actual delayed arrival time of information of multimedia objects to be played" (Emphasis added). The Examiner asserts the teachings of Moore, attempting to supply this missing feature to Kim and Graf. Applicants submit that Moore also does not teach using "actual delay arrival times" as recited by claim 1.

Moore is directed to system of inserting a delay in the *first* packet of data sent at a higher priority (col. 6, ll. 10-13) received at a receiving station in relation to the next packet (col. 2, ll. 25-26 and Figure 2). Moore attempts to prevent buffer underflow or buffer overflow at the receiving end (col. 5, ll. 16-26). Moore calculates the *effective* delay in processing the first packet by using a *reference time* which represents an average time delay interval (see at least at col. 4, ll. 16-22, and col. 7, ll. 12-16), not an actual time delay. The actual delay time is not known to the system (col. 7, ll. 12-14).

The Examiner cites col. 5, ll. 38-58 to support his assertion that an actual delayed arrival time is used in the invention of Moore. However, this is not the case. A close inspection of this section actually teaches away from the present invention. Foremost is Moore's admission that "The actual delay in the arrival time of the first packet is unknown." (col. 5, ll. 43-44) (Emphasis added) There can be no clearer statement to the fact that an actual delay time is not used in Moore.

Further, the Examiner cited section discloses that Moore is attempting to offset (delay) the processing (i.e., the *effective delay*) of the *first* packet based on the actual *arrival time* and the reference time (i.e., an average time) (see col. 5, ll. 46-49 and col. 4, ll. 16-26). The cited section asserted by the Examiner does not teach using *actual* delay times, but at best, a relative delay time based on averages.

Therefore, since the Kim reference, the Graf reference, and the Moore reference each fails to suggest or teach using “the actual delayed arrival time of information...” (emphasis added) of claim 1, Applicant submits that the references fail to teach all the elements of the claimed invention.

Claims 2, 5-7 are dependent claims of independent claim 1, which Applicant now believes is patentably distinct and is therefore drawn to allowable subject matter.

Conclusion

In view of the foregoing amendments and remarks, Applicant submits that the combination of Kim, Graf, and Moore do not teach or suggest all the features of the claimed invention. Further, Applicants submits that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicant hereby makes a written petition for extension of time if needed. Please charge any deficiencies and credit any overpayment of fees to Attorney’s Deposit Account No. 23-1951.

Respectfully submitted,



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